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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,176	01/15/2004	Richard Reynolds	830_012	4849
25191	7590	10/31/2006	EXAMINER	
BURR & BROWN PO BOX 7068 SYRACUSE, NY 13261-7068			WEST, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/758,176

Applicant(s)

REYNOLDS ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5 and 9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


EXAMINER - AU 2857

The Examiner asserts that Applicant's arguments with respect to the specification objection and 35 U.S.C. 112, first paragraph, rejection are not persuasive because the specification contains no suggestion to one having ordinary skill in the art that the long term average equation (lt_jitter) is iterative. Additionally, if the long term average equation (lt_jitter) is based on iterations, the specification does not adequately describe which iteration to use in the equation for differential jitter ($jitter_differential$) which uses long term average (lt_jitter) as a variable.

With respect to the 35 U.S.C. 103 rejections, Applicant argues:

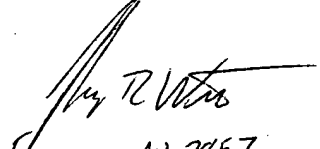
The Examiner correctly asserts that Cisco does not include means for determining a long term average or differential jitter parameter of the extracted parameters or generating an estimated mean opinion score in dependence upon the set of parameters. As with Cisco, Bearden also relates merely to the evaluation of network performance and does not disclose or suggest the use of a jitter differential parameter, and fails to disclose or suggest that such a parameter would be a useful measure for assessing speech quality. Applicants respectfully submit that the omission of such differential jitter parameters from the documents of Cisco and Bearden point to the inventiveness of the use of such parameters for use in a method for assessing speech quality.

Scott relates to methods and systems for managing jitter. The Examiner's citation to column 3, line 66—column 4, line 4 of Scott for its apparent disclosure for improving speech quality is unfounded. Scott does not provide any disclosure or suggestion that using a jitter differential parameter would or could be usefully employed in a method of assessing speech quality. Scott clearly fails to provide any indication that a jitter differential parameter would be useful to achieve a method of assessing speech quality.

The Examiner asserts that the invention of Bearden is not included to teach the use of a jitter differential parameter as this feature is taught by Scott.

The Examiner maintains that Scott teaches a method, system, and computer program product for managing jitter of packets across a VoIP system (column 1, line 65 to column 2, line 2) that uses a sliding window to calculate a long term jitter parameter in dependence upon a value of jitter for a stored packet and a value of jitter for any preceding stored packets (column 5, lines 22-23 and 41-46) and a differential jitter (i.e. jitter variance) in dependence upon the jitter parameter and the long term jitter parameter (column 5, lines 22-25).

The Examiner also maintains that in light of Cisco's teaching of extracting a set of jitter parameters to assess speech quality of a VoIP network, it would have been obvious to one having ordinary skill in the art to modify the invention of Cisco to explicitly include means for determining a long term average and differential jitter parameter of the extracted parameters, as taught by Scott, because, as suggested by Scott, the combination would have improved the speech quality analysis of Cisco by determining a more complete group of jitter parameters including a jitter variation which would provide an indication as to the changes in the size of a packet from the start to destination thereby allowing the user to monitor such a size change for determining a point of insufficient quality (column 3, line 66 to column 4, line 4).


EXAMINER - AV 2857